IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3994 OF 2005

The State of Maharashtra ..Applicant

Vs.

Bapurao @ Balasaheb Hiraman Wankhede and ors. ..Respondents

Mr. P.A. Pol, APP for applicant-State.
Ms. P.P. Tendulkar i/by Mr. M.S. Karnik for respondent nos.1 to 4.

CORAM: B.H. MARLAPALLE, J.

Date : October 18, 2007.

P.C.:

1. Heard Mr. Pol the learned APP for the applicant-State and Ms. Tendulkar appears for the respondents-accused.

2. This is an application seeking leave to appeal under Section 378 (3) of Cr.P.C. against the order of acquittal passed by the learned IInd Ad-hoc Addil. Sessions Judge, Nashik on 27/9/2004 in Sessions Case No. 121 of 2003.

3. The accused were put on trial for the offences

punishable under Sections 306 and 498-A read with Section 34 of IPC. As per the prosecution deceased Ranjana was married to accused no.1 Bapurao sometimes in May 1996 and on 6/2/2003 when her brother PW 2 - Anil entered her house to meet her, she suddenly collapsed. She was taken to the hospital where PW 1 Dr. Rumale had treated her and while under treatment she died on 8/2/2003. As per the prosecution, deceased Ranjana committed suicide and that too on account of harassment and ill-treatment meted out to her by the accused persons while she was in her matrimonial home. It was also claimed that the accused were asking her to bring a sum of Rs.1,00,000/- from her parents and on that count she was ill-treated, tortured and harassed.

4. During the trial, post mortem report at Exh.16 and the C.A. report at Exh.28 was on record. Both these documents did not indicate that Ranjana died due to poisoning and there was no external injury on her person. Her stomach was found empty at the time of post mortem and there was no symptoms of death due to poisoning noticed by the Medical Officer. The forensic evidence specifically ruled out the theory of

consumption of lethal quantity of drug by Ranjana. PW 2 - Anil had deposed that Ranjana was immediately shifted to Canada Care Hospital where she was admitted by PW 1 - Dr. Rumale. The trial court considered the evidence of PW 1, PW 2, PW 3 - Mrs. Mangala an acquaintence of Ranjana and PW 5 - Narayan, the father of Ranjana in support of the theory of cruelty and PW 6 - ASI Khaire and PW 7 - Mr. Bhate were the officers involved in the investigation. The medical evidence did not indicate as to whether Ranjana had consumed any other poison or it was administered. Cause of death could not be ascertained as per the post mortem report and the evidence of PW 1 - Dr. Rumale. It is also the prosecution case that from the time she was shifted to the hospital on 6/2/2003 she was unconscious till she died on 8/2/2003. The trial court also examined the financial condition of the parents of the deceased and discarded the plea that the accused were demanding Rs.1,00,000/- from her parents and on that count she was being ill-treated. The testimony of PWs 2, 3 and 5 has been discarded so as to prove the charge of ill-treatment. A letter at Exh.24 allegedly written by the deceased was produced by PW 2 and it was, in fact, a page removed from the

callendar diary of 7/12/1997. Prosecution did not take steps to prove that it was a hand writing of accused and in any case the contents of the letter were not in conformity with the allegations made by the prosecution. In the letter there was a mention of a demand of Rs.50,000/- and it was claimed to have been received by Mr.Narayan - PW 5, but the envelope in which the said letter was dispatched could not be produced before the trial court and prosecution could not prove whether the said letter was sent by post or through a messenger. In fact, it was a chit scribbled on a calender page. I am, therefore, satisfied that the reasoning set out by the trial court in support of its order of acquittal does not call for reconsideration at the hands of this court.

5. Hence, leave to appeal is refused and the application is rejected.

(B.H. Marlapalle,J.)